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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 002931

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SUBJECT: IRAQI ELECTION LAW UPDATE, NOVEMBER 2, 2009

REF: BAGHDAD 2920

Classified By: Political Minister-Counselor Gary A. Grappo for reasons 1.4(b) and (d).

¶1. (C) SUMMARY. Unable to overcome Kurdish intransigence on the UNAMI proposal on Kirkuk in the national election, the Council of Representatives (COR) ended session November 2 without a vote but agreed to return for an additional session the next day. Embassy and UNAMI discussions with Kurdish MPs suggest that KRG President Barzani has not yet issued a clear directive. Speaker Samarra'i appeared exasperated and requested that UNAMI draft new language that would incorporate elements of VP Adel Abd al-Mahdi's proposal. The Arab and Turkoman contingents have told us they remain prepared to adopt the UNAMI proposal, but are reticent to commit before the Kurds do (in the case of the Turkomans) and wary of crossing the Kurds ahead of the national election (in the case of the Arabs). We will be working overnight and tomorrow to move the Kurds, making clear that the United States strongly supports what it sees as the fairest possible agreement for all parties and pressing for Barzani's acceptance of the UNAMI proposal. END SUMMARY.

State of Play

¶2. (C) Speaker Samarra'i was unable to follow through with his plan to call a vote on the election bill, including the UNAMI proposal for treatment of Kirkuk, at the November 2 session of the COR. Though 165 COR members were present, it quickly became evident that Kurdish parliamentarians would not support the plan for voting rules in Kirkuk that was presented by UNAMI on October 31. In the absence of Kurdish support, the Speaker stalled for time, successfully convincing members to stay in Baghdad for an additional session on November 3 before MPs begin a scheduled week out of session. As Samarra'i left the November 2 session open, this means that he can resume the session November 3 without a quorum of parliamentarians present. However, a quorum (138 MPs) is required for a vote on any legislation.

¶3. (C) COR Legal Committee MP Khaled Schwany (PUK - Kirkuk) objected to two elements of the UNAMI proposal: 1) holding a second round of elections in Kirkuk in January 2011, and 2) including reference to the "current administrative boundaries" of Kirkuk. With regard to the latter, Schwany explained that Arabs and Turkomans insistence on using the 1957 census as a basis for review of the Kirkuk voter list is a problem because that would include four districts with significant Kurdish populations -- Kular, Chamchamal, Kifri and Toz Khormatu -- that have since been incorporated into neighboring provinces. In a meeting with acting Kurdish Alliance list leader Friad Rwanduzi, Poloffs stressed that while it was for the parties to decide whether to hold a second round of elections in January 2011 as part of a compromise agreement, raising the issue of the four provinces constituted an attempt to inject disputed internal boundaries (DIBs) issues into the election law debate, which the United

States strongly opposed.

¶4. (C) On November 2, MP Saadi Barzinji, KDP hardliner from Kirkuk issued "an explanation" to the press about the Kurds' objection to the October 31 UNAMI election law proposal. Acting Kurdish Alliance List (KAL) leader Friad Rwanduzi told Poloffs the KDP and Kurdish Islamic Union (KIU) acted without instruction from Erbil in issuing their statement. (Note: Rwanduzi was part of the Kurdish group present with Barzinji when he gave his statement. End note.) Rwanduzi admitted (when he gave his statement. End note.) that Barzinji's statement reinforced the perception that the Kurds were being inflexible about the law and potentially limited the Kurds' room for maneuver. Rwanduzi said he had been in regular contact with President Jalal Talabani and intimated that the PUK is willing to be more flexible than the KDP with respect to election law modalities, but stressed that with respect to Kirkuk, the PUK and KDP must maintain a united front. (Comment: Rwanduzi's remarks were the first suggestion at the level of Kurdish parliamentarians that there is daylight between the PUK and KDP positions on the election law. End Comment.)

¶5. (C) Rwanduzi and KDP Chief of Staff Sarchel Lawrani said separately that KRG President Masoud Barzani contacted Deputy House Speaker Arif Tayfour early November 2 to give him limited latitude to negotiate on the election law; however, Rwanduzi stressed that the KAL cannot move forward on the UNAMI proposal or any other version of the law until it receives specific instructions from Barzani. (Comment: Rwanduzi's remarks make it clear that the Kurds' actions today in the COR were designed to stall progress either to allow the UNAMI proposal to die of its own accord or give

BAGHDAD 00002931 002 OF 002

Barzani time to reach a decision. End comment.)

¶6. (C) Rwanduzi expressed concern about interference in the process by Turkish Ambassador Murat Ozcelik. He alleged that Ozcelik had pressured Speaker Samarra'i and Iraqi Turkoman Front Sa'ad Eddin Ergec to reject a new proposal by COR Legal Committee Chair Baha al-Araji to vote on amendments to the 2005 law that would allow the Independent High Electoral Commission (IHEC) to continue preparations for the election according to its operational timeline. Al-Araji's proposal was to vote only on the election date, open versus closed list, and total number of COR seats, and to defer further discussion on Kirkuk election modalities until November 30. The Arabs and Turks fear, however, that if they accepted such a formula, the issue of whether and how Kirkuk would vote would not be addressed, constituting a de facto victory for the Kurds. UNAMI Poloffs heard similar reports from Sunni Arabs about Ozcelik's interventions; they were also told that he had pressed Samarra'i to endorse an earlier proposal by Arabs and Turkomans to give two compensatory seats to the Sunni Arab and Turkoman blocs in Kirkuk (vice the one each prescribed in UNAMI's proposal).

¶7. (C) Rwanduzi shared with Poloffs a separate proposal he attributed to Speaker Samarra'i. It called for using the 2009 voter registration list and establishing a committee to review voter lists in all provinces. In any province in which fraudulent registrations were found to have exceeded 15-20 percent, new elections would be held in January 2011. He re-stated that Kirkuk cannot be singled out for review and that compensatory seats are unconstitutional.

¶8. (C) DCM Ford briefed Ayad Allawi (Iraqi National Movement) and Adnan Pachachi (former Foreign Minister) on the October 31 UNAMI election law proposal, of which they appeared to be unaware. The DCM said that the Arabs and Turkomans appeared ready to accept the deal, while the Kurds are still studying the offer. He told Allawi that the Vice President had spoken to KRG President Barzani on November 1 to encourage support for the proposal. The DCM then asked Allawi -- who has a long-standing relationship with the KRG

President -- whether Barzani has the assurances he needs to move forward on the election law. Allawi said Barzani is nervous about Kirkuk's future. Allawi implied that he would not take a position against Barzani or the Kurdish bloc.
(COMMENT: This is in line with what ISCI's Ammar al-Hakim and Da'wa Ali al-Adeeb told Ambassador Hill November 1; the Shia are reluctant to exert pressure on the Kurds to support the UNAMI proposal. END COMMENT.)

¶9. (C) The Ambassador spoke frankly with President Jalal Talabani November 1, and also engaged with KRG PM Barham Salih on the election law twice on November 2. On the ground in Kirkuk, the Ambassador's Senior Advisor for Northern Iraq (ASANI) met with Kurds, Sunni Arabs and Christians to urge support for UNAMI's proposal. Kirkuk's Sunni Arab Deputy Governor, Rakan Saeed al-Jabouri, described the UNAMI proposal as "a negative development," in large part because it called for the "heavily falsified" 2009 voter registration list. He called MP Omar al-Jabouri in Baghdad with the ASANI in the room to raise his objections, and was discomfited that Omar al-Jabouri and "the (Sunni Arab) brothers in Baghdad" were "studying" UNAMI's proposal. Imad Yokhanna Yago, Kirkuk Branch Director of the Assyrian Democratic Movement expressed concern that UNAMI's proposal ignored Christians and Qconcern that UNAMI's proposal ignored Christians and non-Turkoman/Sunni Arab minorities in Kirkuk and urged the USG not to forget the interests of Kirkuk's Christian minority.

Next Steps

¶10. (C) As election law debate the COR drags on, the IHEC Board of Commissioners continues to express anxiety about its ability to meet the operational timeline for a January 16, 2010 election date. With just 75 days to go before the election, IHEC is well under its previously stated requirement of 90 days to prepare for an election. Meanwhile, the Ambassador has instructed his Special Advisor for Northern Iraq to engage various interlocutors in Erbil as well as those traveling to Vienna with Barzani November 2. The Ambassador and poloffs will continue to press Kurds and others within the COR before a possible vote on November 3.
HILL